

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

**MEMORANDUM IN  
SUPPORT OF MOTION  
IN LIMINE  
IND# 22-CR-091-S4 (RA)**

-against-

**BILLY ORTEGA,**

Defendant.

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Your Honor,

**PRELIMINARY STATEMENT**

Defendant BILLY ORTEGA submits these Motions in Limine pursuant to Federal Rules of Criminal Procedure Rule 12, on the schedule set by the Court. Pursuant to Federal Rule of Criminal Procedure 12, and for the reasons set forth in the memorandum, the Defendant hereby moves for an order:

1. [REDACTED]
2. Allowing defense counsel to inquire into matters related to Kaylen Rainey's actions within the Metropolitan Detention Center (MDC) under FRE 608 and 404.
3. Prohibiting the Government from introducing any unnoticed evidence of prior bad acts.

A. [REDACTED]

[REDACTED]

[REDACTED]

**B. Defense Counsel Should be Permitted to Inquire into the Actions of [REDACTED] in the MDC**

[REDACTED] that [REDACTED] is engaged [REDACTED] and the distribution of narcotics, including drugs laced with fentanyl, within the MDC. This is admissible as it shows that [REDACTED] puts his interests above those of society, which implicates his character for truthfulness. Furthermore this shows a common fraud or scheme on behalf of [REDACTED], he sold drugs laced with fentanyl while at liberty and has continued this scheme of selling fentanyl laced drugs while in the MDC.

**C. The Government Should be Prohibited from Introducing Evidence of any Prior Bad Acts for Which They Have Not Provided Notice**

Rule 404(b)(2) states, in relevant part, that “the prosecutor must: (A) provide reasonable notice of the general nature of any such evidence that the prosecutor intends to offer at trial.” The defense has received notice, in the form of a December 27, 2022 disclosure by the Government, of matters that the Government intends to introduce under Rule 404. Objections to those matters will be dealt with in the defense response, due on January 6, 2023. We request that the Government be prohibited from introducing evidence of any prior bad acts that have not been noticed. If the Court is unwilling to issue such prohibition we request that, should the Government attempt to introduce any unnoticed prior bad acts the defense be given leave to file a motion challenging such evidence.

**D. The Government Should be Prohibited from Introducing Evidence Related to the Status of Co-Defendant Drayton**

The Government should be prohibited from introducing any evidence related to the status of co-defendant Drayton or mentioning that status. Mr. Drayton has pled guilty. Any mention of his status would be highly prejudicial to Mr. Ortega. The fact that his co-defendant pled guilty should not be mentioned due to this prejudice which risks Mr. Ortega being convicted because since his co-defendant was convicted he must therefore be guilty of something too. In the proposed jury instructions we intend to ask for a jury instruction that the jurors are not to speculate regarding any of his co-defendants and why they are or are not present.

**CONCLUSION**

Based upon the foregoing, it is respectfully submitted that relief requested in the Preliminary Statement be granted, as well as any just and further relief this court deems necessary.

Dated: 12/29/2022

*Respectfully Submitted,*

*Dawn M. Florio*

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